

# SPEECH OF MR. COOPER, OF PENN.

ON

## THE COMPROMISE BILL.

IN SENATE, *Saturday, June 29, 1850.*

The Senate having under consideration the bill for the admission of California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundaries—

Mr. COOPER said : In the present state of my health, and under different circumstances, I would have preferred to remain silent, and have contented myself with a simple vote upon the important and deeply absorbing questions now pending in the Senate. Having no expectation, and not even entertaining a hope, of being able to shed any new light upon these questions, I would gladly have persevered in the silence which I have observed from the beginning of the discussion. It is no grateful task to speak on a subject exhausted of all its novelty ; and duty, and not inclination, prompts me to do it. Worn out as the subject is, wearisome as it has become, I can scarcely hope for the attention of the Senate whilst I endeavor to present the reasons which will govern me in voting for the bill. But as I deem it due, both to my constituents and myself, that my reasons for doing so should be known, I must beg the indulgence of the Senate whilst I endeavor to present them; and I shall strive to show my appreciation of its indulgence by occupying as little of its time as will suffice for the purpose. From information derived from various sources, I am satisfied that a great misapprehension prevails in the country in relation to the character of this measure, and that pains have been taken to increase such misapprehension, and to ensure, in advance, the condemnation of every member of Congress who shall dare to give it his support. Men, Northern men, who supported the Clayton compromise, or who were at least silent as to its effects, denounce this measure as iniquitous, and as involving an abandonment of every principle dear to Northern freemen. To support this measure is "treason;" treason to the President, who has proposed a plan of adjustment different from this; and treason to the cause of human freedom, for which the pains and penalties of outlawry, if not political death, are denounced. Especially is this the case in relation to every Whig. What punishment is reserved for Democratic "traitors" I do not know; probably their continued exclusion from office, its emoluments and honors—a grievous infliction in the estimation of those who have constituted themselves judges in this matter. The loss of popular favor seems to be regarded, by the class of men to whom I have just referred, as the direst of all calamities that can befall a public man. Conscience violated, sacred duties neglected, self-respect immolated at the shrine of a base ambition, might be by such esteemed sacrifices; but they would be regarded as trivial in comparison with the loss of popularity.

Mr. President, I do not despise public favor. I am as sensible to it as others; and, like others, I have sought the distinction which it confers. But, in doing this, I have not abdicated my own judgment, my own self-respect, or the right to think and act according to their dictates. To surrender these would be to surrender all, every thing that makes public life desirable, or the public servant useful and respectable. I am not so constituted as to be able to do this. On a subject of great concern to the country, I cannot help but think; and thinking, my mind voluntarily decides, and, according to its decision, I must act, if I act at all. It is a necessity of my moral constitution to do so. But, sir, I repeat that I do not pretend to be insensible to public favor. On the contrary, I prize as highly as any one the esteem and confidence of my constituents. Yet if the performance of what I regard to be a duty to the country should involve the loss of their favor, which I have had the good fortune to enjoy, I can only express my submission to the deprivation, and say, in the language of Horace—

"Laudo manentem; si celeres quatit  
Pennas, resigno quæ dedit." \* \*

But, Mr. President, I am sure that the support of this measure will involve no such sacrifice. The people of Pennsylvania, whom I partly represent upon this floor, are deeply, devotedly, cordially attached to the Union, and anxious for the restoration of harmony amongst all its members; and whilst they love the Union for itself and for the glorious future which it promises, they will not be forgetful that their own interests and the interests of their children are bound up in its preservation and in examining this measure, as they will examine it, in connexion with others that have been proposed, before passing judgment upon it, they will find that though in every respect it may not be what they could have most wished, it is, nevertheless, the best which was practicable under the circumstances. The adoption of this measure involves no violation of national faith; the neglect of no duty which we are bound to perform; and when it is properly understood, it will be regarded as



more satisfactory to the people of the free States than the plan which has come to be looked upon, but without reason, as its antagonist. I refer to the plan of the President of the United States.

But before I proceed to the discussion of the questions which are involved in the bill before us, I desire to notice some of the arguments which have been advanced by the honorable Senator from Massachusetts (Mr. DAVIS) who has just taken his seat. He will pardon me if I say—I do it with all respect—that his speech seemed to me to be designed to put some person, or some class of persons, in the wrong. That there was no intention on his part to do this, I am willing to admit; but the tendency of his remarks was not calculated, in my judgment, to illustrate the measure now under consideration, and to make its provisions plain and appreciable to the country, but to show that certain persons were in a position in which they could not justify themselves, and in which the country, or a portion of it at least, would not sustain them.

Mr. DAVIS, of Massachusetts. Will the Senator allow me to say, that if he supposes I alluded to him, or to any one with whom he acts, or had any such specific object as he mentions, he is entirely mistaken. I meant to do nothing but use fair arguments.

Mr. COOPER. I know very well that the Senator did not design wrong to any one, and I so stated; but yet, in the fervor of advocacy of the peculiar views which he maintained, he used language susceptible of a construction such as I have referred to. I will now advert to some of his remarks. In the first place, he declares that the supporters of the compromise—which he says is not a “compromise” but a “concession”—have asserted that the Wilmot Proviso, or the ordinance of 1787, is a mere abstraction. Now, sir, I have heard no supporter of this measure assert that the Wilmot Proviso is an abstraction.

Mr. DAVIS, of Massachusetts. It is called so in the report of the committee.

Mr. COOPER. I will show presently what is said of it in the report. In its application to the Territories in question the Wilmot Proviso is regarded by some as unprofitable and useless, because they hold that slavery is as effectually excluded by the Mexican laws, the character of the country, and other circumstances, as it would be by the proviso itself. Therefore it is that they have spoken of it as an abstraction. Nobody that I have heard in the course of this discussion has said that the Wilmot Proviso would not be practical and operative if applied under circumstances in which the necessity for it had not been already superseded either by laws which have existed as long as the earth has existed, or by laws that were enacted by the countries to which the Territories belonged, and which continue to operate in them. This is the view that has been taken of it. But the honorable Senator from Massachusetts finds great difficulty about these laws. He says that the honorable chairman of the Committee of Thirteen (Mr. CLAY) gave it as his opinion that the laws of Mexico are now in force in the Territories, and that slavery being inconsistent with these laws, cannot exist there; and that other distinguished lawyers and Senators have maintained the same opinion in the course of the discussion upon this subject. But the difficulty of my honorable friend arises from the fact, that on the other side of the Chamber an opinion adverse to that expressed by the honorable chairman and others has been announced. He is therefore at a loss, in this conflict of opinions, as expressed on the one side and on the other, what to believe. Has not the Senator examined the question of law? He seems to be familiar with the measure and with all the consequences of it. Has he not, then, in informing himself on the subject, examined the question of law? And if he has, how has his own judgment decided? With the honorable chairman of the committee and those who have maintained as their opinion that slavery does not exist in the Territories, or with those who hold the contrary opinion? He ought to have decided it one way or the other; for it is a question of vast importance, and ought not to have escaped his attention in an examination of the measure such as would authorize him to pronounce with confidence upon its merits.

But, sir, I will not here discuss the question whether slavery is excluded from the Territories or not. In the course of the remarks which I propose to submit, I shall, if my strength permit, examine it somewhat at large. But before proceeding further, I desire to call the attention of the Senator from Massachusetts to a question of fact. He has not examined the question of law, or, if he has, his mind is balancing between the two adverse opinions which have been expressed in regard to it. But what does he say of the other causes and circumstances, which it has been alleged are likely to exclude slavery from these Territories? Has he looked at it in this respect? It is well known that there are millions of acres of land, as fertile as the sun ever shone upon, in the great valley of the Mississippi which the foot of industry has not trodden, and which is awaiting the hand of cultivation to make it fruitful. This land is open to those who choose to employ slave labor, and it is well adapted to the production of all those articles on which slave labor has been successfully employed. Nor is it likely, when there are so many millions of acres lying in a country in which the institution of slavery is not only secure, but popular, that the owners of slaves will pass by this fertile and inviting region, theirs already, to carry them into the almost inaccessible and comparatively barren territory of New Mexico? Why, sir, would it not argue a kind of infatuation on the part of our Southern friends to do this? Do we not know, from intelligence received from New Mexico through slaveholders and others, that it is a territory not at all adapted to the growth of that kind of products in which slave labor can be profitably employed? Even if the sentiment prevailing in the Territory were favorable to slavery, it is quite improbable that it would ever be carried thither. I repeat, sir, that it is not at all likely that slavery will ever be carried there. I shall say nothing in this place of the character of the soil, of its geographical formation, and of the likelihood of the exclusion of slavery by reason of those irrepealable laws which were referred to by my honorable friend from Massachusetts, (Mr. WEBSTER.) But, sir, do we not know that men are governed in a great measure by the profit or loss which will attend their enterprises? This being the case, is it likely that those who have slaves profitably employed in the Atlantic States, or in the States in the valley of the Mississippi, would carry them to a country re-



mote from markets, and altogether without adaptation to their peculiar pursuits? We know how universally and deeply profit and loss enter into all human calculations, and how unlikely it would be that men should remove their slaves from a country where their labor is productive, and the markets for their labor good and convenient, to a country practically, from its remoteness, without a market, and in other respects little inviting to the master. Does not the Senator see that the doubt his own mind finds it so difficult to solve, will be the great security against the introduction of slavery into these Territories? Masters will hardly carry their slaves into a Territory in which they will be likely to be free as soon as their feet touch its soil. But the Senator himself seemed to realize some of the improbability of slavery being established in a country so little adapted by nature, and its remoteness from markets, to the cultivation and sale of slave products. In examining the subject, however, he has discovered what he supposes to be a solution of this difficulty; he thinks New Mexico is a country that would be well adapted to the raising of slaves for other markets. Sir, it seems to me to be the most unlikely place in the world in point of adaptation to a purpose of that kind.

My friend, the honorable Senator, did not express the sentiment in the language in which it was conveyed in the other House; but the same idea is prominent. But let us look at its aptitude for the purpose. How, in the first place, would the slaves be fed? It is not a grain country; nor could a market be found for sugar, cotton, rice, or tobacco, if they could be produced. These articles would not bear transportation, either to the east or to the west, where a market could be found for them. Next, would the locality be secure for such a purpose? These Territories are bounded on the north by Oregon, free by law; on the west by California, likely soon to be a free State; on the east by the Indian territory, an excellent hiding place, I am told, for fugitive slaves; and on the south by Mexico, a free jurisdiction. When we look at the question in the light of profit and loss, is it likely that New Mexico and Utah, or either of them, would be found to be as advantageous for the purpose as the Senator supposes? I cannot think so. We have heard those who have lived in New Mexico, and are acquainted with the country and its capabilities, pronounce a judgment at variance with the Senator's views in this respect, and every other. All of them, without exception, I believe, whether slaveholders or others, have expressed the same opinion; and I understand that the objection to the application of the ordinance of 1787 to that territory is not so much on account of its practical operation, as of a dislike to be excluded from these Territories by positive law. They regard it as a gratuitous wrong to be expressly excluded, when by nature and the operation of other causes they are excluded already. In this I have not agreed with them; and only refer to it as a fact in the case. But the honorable Senator from Massachusetts declares that the ordinance of 1787 is practical and operative, and that in all the Northwest Territory it has accomplished its work effectually; and he points to the five States that have grown up out of these Territories—all of them free States. I am not disposed to dispute with the Senator concerning the efficacy of the ordinance of 1787. I have subscribed to it in obedience to my own judgment, and the will of my own State, and have united with the honorable Senator in voting for it; but was it not the sentiment of the people of these Territories that prevented the introduction of slavery into the States which have been formed out of them, rather than the ordinance? Was it not the same sentiment which abolished slavery in Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, and which promises to abolish it in Delaware at no very distant day, that kept the Northwest Territory free from slavery, instead of the practical operation of the ordinance of 1787? In my judgment it was; because if they had chosen to admit slavery after they became States, I presume there is no power in the Government which could have prevented them from doing so, even if there had been a majority disposed to exercise such a power. I do not suppose that there is any power in the Government to prevent a State from choosing its own institutions and introducing slavery, if the people should think proper. But the Senator has stated that the character of a State is formed in its infancy, during its territorial condition; and that if the Territories are populated from free States, they remain free after they become States. This was rather in conflict with his argument, which gave all the credit of freedom in the Territories to the ordinance of 1787. But he has stated as a fact that which, according to my information, derived from various sources, is not precisely so; and that is, that the whole of these five States were originally populated from the free States. Now, so far as Indiana and Illinois are concerned, the greater part of their population was derived from the States of Kentucky, Tennessee, North Carolina, Maryland, and Virginia, and a great majority—

Mr. DAVIS, of Massachusetts. Did the Senator understand me to say that the Northwest States were peopled from the free States? I said no such thing.

Mr. COOPER. Then I stand corrected. I certainly understood the Senator to say that the character of a State was formed in its incipency, and that as the population of a Territory was derived from the North or from the South, so would its character for freedom or slavery be, when it came to establish a State Government. If I was mistaken, why I stand corrected.

Mr. DAVIS, of Massachusetts. I simply meant to assert that, if the population resident there, without reference to where it came from, was a free population throughout the territorial existence, then it would come in as a free State.

Mr. COOPER. I had misunderstood the Senator, then; but enough of that. The Senator from Massachusetts has introduced the Nashville Convention into this discussion in a most extraordinary way, and, as it seemed to me, for a most extraordinary purpose. Does not the Senator know that, so far as the acts of that convention were concerned, they were opposed to the settlement of these distracting questions on the principle proposed by the bill now under consideration in this body? He condemned that body without stint; and if I were to set myself up as a judge in the matter, I should condemn it too. I would condemn it, because it has made itself the ally of gentlemen acting along with the Senator from Massachusetts in opposition to this bill. I have no sympathy with that body whatever. There will be found none in my acts. But it will be found, I think, if we judge from their acts, that



there is some sympathy between the Senator from Massachusetts and the members of that convention. I know it will be said that their opinions are entirely at variance; but, nevertheless, those who are engaged in a common object always have more or less of sympathy, and we have seen it manifested more than once on this floor in the course of this discussion. The Senator who has just taken his seat, and the convention which has lately adjourned, are both aiming at a common object—the defeat of the compromise, and the prevention of any adjustment of existing difficulties; at least, such is the tendency of their acts. Now, I beg the Senator not to put me into such political company as that. I know that the gentlemen who assembled at Nashville are highly respectable, men of great talent and consideration in the country, many of them animated by patriotic motives, but all of them, as I conceive, acting clearly on a mistaken principle. I must beg not to be placed alongside of these gentlemen, who were assembled at Nashville for the purpose, in effect, of making war upon this measure; but the gentleman from Massachusetts may well take his stand alongside of them; and if there be any thing odious in such a juxtaposition, let him remember that it is of his own seeking that attention has been called to it. But what to me seemed equally strange and unkind on the part of the Senator was to bring up the Cuban expedition, and throw it into the scale against the compromise. Why was this done? What connexion, let me ask, is there between the honorable chairman of the Committee of Thirteen and General Lopez? or between the members of the Senate who are supporting this measure and the companions of General Lopez? None, sir; none. But, from the course of the Senator's argument, one would be led to suppose that he was anxious to find some degrading connexion in which to place the supporters of this measure. This is so only in appearance, I know. His motives are upright; and he had no desire, I am sure, to place any one in a false position, or in an unwarrantable or odious connexion. He designed wrong to no one. He denies it, and I am not willing to impute to gentlemen motives which they repudiate. But is it not strange that the supporters of this measure should be brought into connexion with these marauders who were engaged in attempting to disturb the peace of the country? Is it not a strange connexion in which to place them? Sir, I had thought, from much that was said by the honorable Senator in the course of the discussion, that he ascribed to those engaged in the support of this measure honest and patriotic motives; that he believed the aim of all was to give peace to a distracted country; to heal the wounds which have been inflicted, and which threaten to inflame and fester, and at last to result in death, if not cured by some potent remedy. Sir, let us act fairly towards each other, at any rate. I am willing to ascribe the most sincere and patriotic motives to the Senator from Massachusetts, and those who act with him; and I shall do nothing to present him or them in a false or improper attitude before their constituents. But I beg the same justice at their hands. I do not wish to be classed, in any portion of the country, with those who were engaged at Nashville, making war upon this measure, or with Lopez and the marauders and robbers who were engaged in making war upon a neighboring and friendly nation. It is quite probable from the attempts which are being made at home to mislead and deceive my constituents, that I shall have enough to do to satisfy them as to the propriety of my course, without having my actions misrepresented here, or a false connexion assigned to me.

But the Senator from Massachusetts says that this is no compromise; that it is only a concession. Sir, I thought concession entered into every compromise; that it was a necessary ingredient of it; that the meaning of the term itself implied concession. But the gentleman says that it is all concession on the part of the North, and that the North is called upon to yield up every thing—the ordinance of '87 and all. This is a mistake; it is called on to forego it—not to yield it, for it never possessed it. But, sir, here is a strange similarity of opinion—certainly a great similarity of expression—between the Senator and the gentlemen engaged at Nashville, a part of whose proceedings he read to the Senate this morning. He says that the North is asked to concede every thing, and that the South gains every thing by the compromise. The Nashville gentlemen say that the South will be degraded and dishonored by the adoption of the compromise; that it means nothing except the exaction of new concessions from the South, which has already made so many! What a wonderful similarity is there in the language of the Senator from Massachusetts and his co-laborers at Nashville. According to one, the North is degraded; according to the other, the South is robbed and dishonored; but both concur in making war upon the compromise and its friends. It is strange that such a similarity of object should exist between parties so widely asunder; and it would be stranger still if truth were not found between these two extremes.

But the Senator from Massachusetts thinks there is no serious difficulty in relation to boundary between Texas and New Mexico. He says that for two hundred years, or nearly, there was an unsettled boundary question pending between Rhode Island and Massachusetts, and that no serious inconvenience resulted from it. Now, sir, I have been hardly pressed in court in my day, and may have used illustrations that were somewhat far-fetched; but I do not think I ever went quite so far as the Senator from Massachusetts has done in this instance. What analogy, what resemblance is there between the question which existed for so many years between Massachusetts and Rhode Island, and that which now exists between New Mexico, or, if you choose, between the United States and Texas? In the last mentioned case there is an area of thousands of square miles in dispute; angry passions have been excited, and threats have been made of a speedy resort to arms, on the one side and the other, to settle it. There was no such thing in the case of Rhode Island and Massachusetts. There was a little strip of territory, of very little value to either party, and only necessary to be settled for the benefit of those living upon it, and to ascertain the jurisdiction of the respective States, in order that their laws might be enforced. There were, as we all know, difficulties of a slight and trivial character, arising out of the unsettled condition of this boundary; but they never threatened to involve the peace and safety of the States between whom the dispute existed. Justice was often obstructed, and sometimes frustrated, by the uncertainty existing in relation to this boundary, which was eventually set-



bled by the Supreme Court of the United States. But, sir, this dispute might have remained unsettled two hundred years more, and the peace of the country not have been endangered. Blood would not have been likely to flow, nor would there have been danger of a bloody collision between the citizens of the States, or between either of the States and the United States. Sir, there is a vast difference between the two cases; and it seems to me the Senator from Massachusetts must have been hard set for illustration when he resorted to this one.

Mr. President, before certain recent developments of the condition of things in New Mexico, I would have been willing to adopt the plan proposed by the President in his message of the 21st of January last. I would have done so, however, not because I believed it would settle finally the difficulties which distract the country, or even temporarily, in a manner favorable to the North, but because I am always ready to defer, as far as possible, to recommendations coming from a source so eminent. A principal object of the plan of the President, as appears from his message to which I have just referred, was to get rid of the Wilmot Proviso, and the conflict and exasperation to which he feared it would give rise. I appreciate his motives; they were patriotic, and designed to prevent sectional strife and alienation. But since his plan was communicated to Congress in January last, circumstances have greatly changed; so much so, that if he were now called on to devise one, it would, in all probability, be different, and much more comprehensive. At that time, opposition to the admission of California had not manifested itself with the violence it has done since. There was then no well-grounded apprehension that her admission, if insisted on alone, might be altogether defeated; nor was the danger of a violent, and perhaps bloody, collision between New Mexico and Texas foreseen. There had been no formal attempt on the part of Texas to extend her jurisdiction over Santa Fé and other parts of New Mexico, far beyond the limits of her actual occupation; nor had there been at that time any allegation of a design to introduce slavery into New Mexico amidst the confusion and chaos prevailing there, in consequence of the want of a government with power and inclination to prevent it. Every passing day has demonstrated the necessity of providing governments for these Territories, especially for that of New Mexico. Her people have never ceased to ask for it; and if it had been granted to them in time, the impending collision between them and Texas would in all probability have been avoided. One of the main causes of danger is the exasperation of the people of New Mexico, who have been brought into direct collision with the agents of Texas, sent thither for the purpose of establishing her jurisdiction. If there had been a government in New Mexico, negotiation, as is usual in such cases, would have been resorted to and exhausted before recourse was had to violence. And the respective governments, representing their people, would have stood between them to prevent violence. But as there is no government in New Mexico recognised or respected by the people—none, at least, which they can rely on to defend their territorial rights, or treat with Texas in respect to them—they have been brought of necessity into direct collision with her. Hence the danger that exists.

It is true, at least such is the report, that the people of New Mexico have formed a State government, and intend to ask admission into the Union. If they have done so, it was in despair of the establishment of a Territorial government, which they greatly preferred, and which, I am obliged to say, was much better adapted to their condition than a State government, and fraught with far fewer difficulties. The American population of New Mexico is very small in number, amounting, probably, to less than two thousand souls—the remainder being composed of Mexicans, Mestizos, and Indians. Nor is it likely the white population of the Territory will be greatly increased for years to come. The tide of immigration, from the inducements which California, the El Dorado of the nineteenth century, holds out to the adventurer, is setting in that direction; and the comparatively barren and uninviting territory of New Mexico will in all probability remain unoccupied, to a great extent, for many years to come. But suppose she were to present herself for admission as a State to-morrow, is it probable she would meet with a better or more cordial reception than California has done? To the admission of New Mexico there would be some serious objections. To the admission of California there are none that, in my judgment, are substantial.

I have stated, Mr. President, that a primary object of the plan of the President was to prevent the conflict which he was apprehensive would arise from the persistence of the North in the application of the Wilmot Proviso to bills providing governments for this and other Territories acquired from Mexico. In this respect the object of his plan has failed already. The Wilmot Proviso has been insisted upon. It was proposed and has been voted upon; and the conflict in regard to it, as far as the Senate is concerned, is over. The motives, therefore, most of them at least, which actuated the President at the time he submitted his plan to Congress, have ceased to operate; and besides this, as I have attempted to show, many facts have been developed since, which prove the necessity of a much more comprehensive plan than that which he has proposed. But there are those who insist on the adoption of this plan, practicable or impracticable, right or wrong; and who denounce as enemies to the President, and traitors to the Whig party, if not to the cause of human freedom, every one who dares to yield it his support. How long, sir, is it since opposition to Executive interference in matters of legislation has ceased to be a prominent article in the Whig creed? How long is it since such interference was a theme of denunciation on our part? And how often was it repeated during the last Presidential canvass, that the functions of Congress had been usurped by, or with slavish tameness yielded to, the Executive, until the latter had come to exercise, in advance, a power ten times more formidable than the veto—the power by which the adoption of a favorite measure was secured, and the passage of an obnoxious one defeated? This, sir, was an argument which I used myself, and which I heard used by others, against the Democratic party on many occasions during that canvass. I was opposed to such interference, because I believed its tendency was to debase the Legislative branch of the Government, and render it subservient to the Executive. I thought it was wrong that



the influence and patronage of the Executive should be used so as to constitute a veto in advance upon the action of Congress. The Constitution gives to the Executive the right to veto bills subsequent to their passage; and this I considered sufficient to guard the Executive against the encroachments of the Legislature, and to protect the country against the effects of hasty, inconsiderate, or unconstitutional legislation. I resisted it when our opponents were in power, not through factious motives, but because I thought it was wrong; and my opinions having undergone no change, I cannot support it now that our friends are in power, merely because they are so. Wishing to preserve my own consistency, and to see the Whig party preserve its consistency, on this subject and every other, I have chosen to resent the attempts which are now being made to coerce Congress, by threats and intimidation, into the support of the plan of the Executive.

But, Mr. President, I would be doing injustice to President Taylor, if I did not expressly exonerate him from any design to interfere improperly with the action of Congress on this or any other subject. He is a firm, honest, consistent man, and has had no participation whatever in the attempt to coerce Congress into the support of his views. He has uttered no threats, and regards it as no crime that members of Congress differ with him in this respect. This attempt at coercion and intimidation is the work of others. He has given it no countenance whatever. His sentiments on this subject accord entirely with those which I have just expressed; and in order that they may be perfectly understood, I beg leave to call the attention of the Senate to a paragraph in a letter addressed by him to Captain Allison. It is in these words:

"Indeed, I have thought that for many years past the known wishes and opinions of the Executive have exercised undue and injurious influence upon the legislative department of the Government; and for this cause I have thought our system was undergoing a change from its true theory. The personal opinions of the individual who may happen to occupy the Executive chair ought not to control the action of Congress upon questions of domestic policy; nor ought his objections to be interposed when questions of constitutional power have been settled by the various departments of the Government, and acquiesced in by the people."

I stated, Mr. President, that the views of General Taylor accorded with those I had expressed; but they go further. He declares that, in his judgment, even a *knowledge* of the "opinions and wishes of the Executive" exercises an "undue and injurious influence on the legislative department of the Government; and that the "personal opinions of the individual who happens to occupy the Executive chair ought not to control the action of Congress." Believing, as he does, that "the known opinions and wishes of the Executive" are calculated to exercise an "undue and injurious influence on the legislative department of the Government," what would he think if he were informed that those who feel bound to support a plan of adjustment different from that which he has proposed, are denounced as his enemies, and threatened with the loss of his favor and excommunication from the party? Why, sir, that those who pretend to be his friends are in truth his enemies, and would disgrace him by exhibiting him as grossly inconsistent and faithless to his most solemn recorded pledges. His opinions, deliberately expressed on this subject, prove that the plan contained in his California message was only proposed by him in obedience to what he regarded as an imperative duty, and without the remotest design, on his part, of securing its adoption by Congress, through the exercise of any influence other than his simple recommendation. To coerce members to support the plan which he has proposed never entered his mind.

But, Mr. President, this is a digression into which I have been drawn in order to show that the enemies of the measure now under consideration have threatened its friends with the displeasure of the President without his warrant, as has been clearly proved by reference to his opinions, deliberately expressed and written down with a view to publication. Unless he has retracted them, (and if he has done so he no longer stands on the platform of the Alison letter, on which he was elected,) he has exercised no influence, indulged in no threats, nor resorted to coercion of any kind, to compel members of Congress to support his plan to the exclusion of the one now pending in the Senate. Threats of Executive displeasure, and charges of treason to the Whig party and the cause of human freedom, come from other sources—from the miserable parasites and reptiles who cling to and crawl about men in power. The purlieus of courts are always infested, more or less, by creatures of this species, who, professing to speak by authority, utter nevertheless but their own silly and mischievous babble. From such as these, and not from the President, have come threats and charges of treason against those who differ with him, perhaps in respect to this single measure. But I return to the point from whence I digressed.

Mr. President, I shall now proceed to discuss the general propositions of the bill before us.

Mr. WEBSTER. If the Senator from Pennsylvania will give way, I will move an adjournment. The day is very warm, and the Senator's health is feeble; and I hope the Senate will favor him by an adjournment.

Mr. COOPER. I will give way for the motion; but I wish to be governed by the pleasure of the Senate.

The Senate, on motion of Mr. KING, went into Executive session.

MONDAY, July 1, 1850.

The Senate resumed the consideration of the same subject.

Mr. COOPER continued: Mr. President, the proposition which I shall endeavor to establish is, that the plan of adjustment embraced in the bill now under consideration, and in the other two bills which form its complement, is not only necessary, but much more conformable, when properly understood, to the views, feelings, and interests of the people of the free States, than that of the President. What



are the provisions of the plan of adjustment embraced in the bill now before us, and in the two lying upon our table? The first, is for the admission of California into the Union, on the terms and with the boundaries prescribed in her constitution; the second, for the establishment of civil governments in the Territories of New Mexico and Utah; and the third, for the settlement of the boundaries of Texas. These three provisions are contained in one bill. The fourth provision, contained in a bill by itself, is for the recaption of fugitive slaves; and the fifth, likewise in a bill by itself, is for the abolition of the slave trade in the District of Columbia.

Against the admission of California into the Union, various objections have been urged. It is alleged that, in the formation of her constitution, she acted without the authority of Congress, and therefore irregularly; that the extent of territory embraced in the boundaries prescribed for herself is entirely too great, and out of proportion with the other States; and that this is especially the case in regard to the extent of her sea-coast, embracing some eight or nine hundred miles on the Pacific. In these objections there is some force; but it will be greatly diminished by a careful examination of the geography of the country, its formation, the character and course of its rivers, and its exterior boundaries. It is not my purpose to advert particularly to the objections founded upon her size and the extent of her sea-coast. These objections have been met and answered, as fully as they are susceptible of answer, by several Senators, during the course of the discussion. The Senator from Massachusetts (Mr. WEBSTER) and the Senator from Maine (Mr. HAMLIN) said all that could be said on this branch of the subject. But as to the irregularity of which she has been guilty in framing a constitution, and applying for admission into the Union as a State, without previous authority from Congress, I desire to say a word. That there is some irregularity in the course which she has pursued, no one will attempt to deny. But, in pronouncing upon such irregularity, regard must be had to her condition, and our own neglect of it. That condition was most peculiar. Torn from her connexion with Mexico, of which she had been a province, civil society, as we are informed, was almost disorganized and broken up. Actual political government, there was none in California; and, although her municipal laws and regulations continued to exist, there was no power to enforce obedience to them, in the extraordinary state of things which then prevailed. The discovery of gold, in quantities larger than had ever been known in the previous history of the world, attracted men from all nations to this modern El Dorado; and the consequence was confusion, violence, and disorder. The very abundance of the precious metal, though equal to the supply of all, stimulated cupidity into a degree of fierceness which want, however absolute, could not have inspired. A stranger spectacle than California exhibited was probably never seen before. Wealth and want, poverty and luxury, profusion and destitution, strangely combined with unbridled license, and a feeling of the necessity of order, and the restraints of law, formed the characteristics of a society composed of the people of many nations, dissimilar in manners, customs, habits, and language. Thousands of our own countrymen had gone thither, in obedience to the impulse which carries them wherever gain is to be realized or hoped for. But they had carried with them, along with the Anglo Saxon energy and spirit of enterprise, a love for order and the security of law. They had seen and felt the workings of our institutions on the Atlantic side of the Rocky mountains, and had not forgotten to appreciate them in their new homes on the shores of the Pacific. Congress had neglected to provide a government for the country, as it was bound to do by the stipulations of the treaty of Gaudalupe Hidalgo. Under such circumstances, who can justly blame them for doing for themselves what Congress was bound to do for them, but had neglected? Anarchy reigned supreme. There was no security for life or the fruits of industry. Might was right. A remedy for this state of things was necessary; and they applied that one which was most natural and efficacious. They established a State government, framed on the model of the other States of the Union. And allow me to ask, what was there criminal or even objectionable in this? It must be borne in mind, not only that their condition called loudly upon them to do what they have done, but also that they were invited to do it by the President of the United States. When all the circumstances of their condition are considered, the lawlessness and confusion which prevailed, their right to a government by the provisions of the treaty, and the suggestion of the President that they should form one, just and candid men will hardly pronounce their conduct blameable. On the contrary, I think, most men will find in it much more to applaud than condemn.

The right of communities who find themselves in a state of anarchy to establish governments for their protection, and for the maintenance of law and order, I will not discuss now, further than to say, that it is a right generally conceded, and that in the circumstances in which California was placed, there was nothing to detract from it. On the other hand, in my judgment, there was much to render the exercise of it imperative on her people. As to the irregularity of her course in forming a government without the previous authority of Congress, in addition to the necessity of the case, she can plead the precedent of a number of the States in whose condition there was much less to justify irregularity than in hers. But, besides this, in matters of great national concernment, objections purely formal and technical in their character, ought not to be permitted to outweigh the welfare of large communities.

Objection has been made to her sending two representatives to the other branch of Congress without an actual enumeration of the inhabitants, as prescribed by law. To comply literally with the law in this respect was impossible. But there can be no well founded doubt that her population entitles her to the number she has sent. It will be remembered, too, that in the case of Texas there was no enumeration, such as the law prescribes; and that both are cases which the Constitution and laws did not contemplate. Their requirements, therefore, must, in this respect, be considered as merely directory, and a substantial compliance with them all that is necessary; and there are numerous instances to prove that such has been the understanding and practice of Congress. It will be recollected that several of the States continued to elect members of Congress by general ticket, after the passage of the act re-



quiring them to elect by single districts ; and yet the members thus elected were admitted to their seats. But this is a question more proper for the House of Representatives than for us ; it being the constitutional right of the two Houses to judge, respectively, " of the elections, returns, and qualifications of their own members."

But, Mr. President, if there were in the condition and circumstances of California, at the time she formed her State government, reasons to justify her in the act, the same reasons, with others super-added, appeal to us now in favor of her prompt admission into the Union. Her cities have become the seats of a large and growing commerce ; and already disputes have arisen between the Government collector and the officers of the local authorities. The public domain within her limits requires regulation ; and the people need the protection of law to secure them in the full enjoyment of their rights. It is true, they have formed a State government, and established tribunals for the dispensation of justice between man and man ; but until that government has been recognised by Congress, it will not command fully the respect of the people, nor afford them perfect security in the enjoyment of their rights of person and of property. But recognise it, give to it the sanction of Congress, admit the State into the Union, and it will give force and efficiency to the government, and ensure for it the respect, confidence, and obedience of the people. Our countrymen who have gone thither have carried with them to that remote quarter of the globe the same love for law, order, and security which animates our people at home ; and they feel as deeply as the latter the necessity for good, stable, recognised, lawful government. Hitherto, without participating in the benefits of Government, they have been required to bear a portion of its burdens—the only mark of recognition they have received at our hands. Why should we refuse them the benefits of government ? They are our kindred ; and by our aid promise to become the pioneers of a civilization which the far-off shores of the Pacific will not limit. It will pass into Asia ; and by renovating her, pay back to the East the debt due to it by the West for the rudiments of a civilization which, mingling with European energy, has done so much to elevate and dignify the political, social, and moral condition of the human race.

Mr. President, it is objected by some Senators that it will degrade and dishonor California to be brought into the Union in a bill providing governments for the Territories of New Mexico and Utah. I see no force in this objection, and was surprised when I heard it. I can very well conceive that California may be injured and feel degraded by being kept out of the Union when she is a suppliant to come into it ; but I cannot conceive how she can be dishonored and degraded by being brought into the Union in a bill providing governments for her sister Territories. If ground for complaint existed any where, it would be on the part of the Territories—that, coming to us by the same title, at the same time, and with the same stipulations in their behalf, California should be admitted into the Union as the equal of the other States, while they are left in a territorial and inferior condition. But I repeat, sir, that it is by keeping California out of the Union, when she is a suppliant to come into it, that we do her wrong. It is wrong, not degradation, that she is suffering ; and this she suffers from delay, and not from the connexion in which it is proposed to admit her. In justice to her, and to redeem our faith solemnly pledged to Mexico, I am for admitting her, and admitting her speedily. And I would vote for her admission, if, by so doing, I could hasten it, in connexion with the payment of some second Galphin or other claim against the Government, provided it were right in itself. And though she should come into the Union in such a connexion as this, who would question her equality, or say that the star thus added to the constellation which studs the banner of the Republic was less brilliant because of the manner in which it came there ? No one, sir—no one. The honor of California will depend on no such accidental circumstances as the neighborhood she may occupy in the statute book, but on the intelligence, integrity, and loyalty of her people.

But it is objected that several subjects of legislation, not congruous, are united in the same bill. In the first place, I deny that they are not congruous. They are eminently so. The several Territories of California, New Mexico, and Utah became ours at the same time, and by one title ; with a stipulation in behalf of all that they should " be admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights of citizens of the United States." California is in a condition to be admitted as a State ; the others are not. But all are entitled to the enjoyment of the rights of citizens ; and such rights the bill proposes to confer upon all. But another subject is included, and included almost of necessity—certainly with propriety. I mean the settlement of the boundary of Texas. Texas and New Mexico are coterminous States ; and it would be unwise to establish a government for the latter, without defining the limits within which that government is to be exercised. But her boundary on the side of Texas is in dispute ; hence the necessity of settling it. It will be seen, therefore, that the subjects are congruous, whatever may be said as to the propriety of uniting them in one bill.

I will not deny, as a general proposition, that it is not the better and wiser course to legislate separately on different subjects ; in other words, to include but one subject in a bill. But something is sometimes due to expediency ; and where the subjects are right in themselves, there can be no harm in uniting them. In this case, the adoption of several measures are necessary to allay the agitation which prevails, and restore harmony to the country. It was, therefore, both expedient and proper, in my judgment, to unite such of the measures as were congruous in one bill. Besides this, unhappily for the country, a feeling of distrust existed between the different sections of the Union, which made it necessary that these measures should be carried through together, or the passage of all of them be jeopardized. From the clamor raised against the union of these measures, the community would be led to suppose that it was a novel and extraordinary thing to include more than one measure in a bill. Nothing, however, is more common, both in Congress and in the State legislatures, than to unite several subjects ; and sometimes many, and very incongruous subjects are united in the same bill. In Pennsylvania it is very common, though not always attended with the most desirable results. The



bill incorporating the late Bank of the United States was entitled, if I remember rightly, "an act to repeal the State tax and for other purposes." But at a later period in the history of our legislation a more desirable object was accomplished by the union of two measures in one bill; and that object could not have been accomplished in any other way. I refer to the measure by which the faith of the State, pledged to her creditors, was redeemed, and the stain of repudiation wiped from the name of Pennsylvania. This was done by uniting a bill for the sale of the public works with a bill to increase the State taxes. But I do not refer to these instances by way of general approval, but only to show that this kind of legislation is common, both here and in the States.

But, Mr. President, there are Senators who refuse to vote for this bill, because slavery has not been excluded from the Territories of New Mexico and Utah in advance. I sympathize with these Senators, and voted with them to apply the Wilmot proviso to the Territories. In their judgment and patriotism I have the fullest confidence; but, as it is out of our power to apply the proviso, I feel bound to do that which will be most likely to effect the same object, namely, to admit California, and establish governments in the Territories to enforce the laws now in existence in them. I am ready to vote for the admission of California in every shape in which the question of her admission may be presented; but I entertain the most serious fears that if the bill now under consideration should fail, she will not be admitted at the present session. I hope I may be wrong; but I am for taking the safe course, and admitting her while it is in our power. I am anxious for her admission, not only because it is due to her condition and our own pledges that she should be admitted, but I am likewise anxious for it as a Northern man, because she will come into the Union as a free State, adding to the power of the free States in both branches of Congress. California once admitted, and there is a preponderance of free States in this body, and the ability, if they be true to themselves, to prevent the further acquisition of slave territory, or the extension of slavery beyond its guarantied limits. Is there any doubt of the sentiments of the people of California in relation to slavery? Look at the act of her convention excluding it, an act the more significant of the state of feeling there on this subject, when it is remembered that a majority of that body were Southern men; yet being so, by the force of public sentiment, were compelled, in deference to it, to exclude slavery by a unanimous vote. There are, however, notwithstanding this, Northern Senators who would permit California, a free State, to stand at our doors a suppliant for admission, because they cannot admit her alone, or exclude slavery in advance from the Territories of New Mexico and Utah. Such conduct, in my judgment, is no wiser than that of the general who, on the eve of battle, facing his enemy with equal forces, would decline to receive a reinforcement of one regiment, because there were two others not permitted to join him. As a Northern man, I repeat, that I am for receiving into the Union free States as our Southern friends receive slave States, whenever they present themselves in a proper manner. I would have been glad to see California admitted, and the Wilmot Proviso applied to the Territories, but, having failed in the latter, I am for securing the former. In matters affecting us personally, where we cannot obtain all we ask, it may be well enough to refuse to take any thing; but in matters of legislation, the loss of one favorite measure will not justify us in surrendering others still more important. While, therefore, I should be willing to take all, not being able to obtain it, I will take what I can get. This is a simple principle of action which I think the people will understand; but I doubt if they will be able to understand the principle upon which those members act, who, professing to be anxious for their interests, refuse to take any thing, because they cannot get all. The people of this country, of the free States especially, are practical people, who will understand that the admission of California is a practical fact, and that it will add one to the number of free States, securing to them forever the preponderance in this body. On the other hand, while they would doubtless be glad to see the Wilmot proviso applied to the Territories, and slavery thus expressly excluded, they will hope for the same effect from the Mexican laws now existing in them, and from other circumstances, rendering it unlikely that slavery will ever be carried thither. At any rate, speaking for my own constituents only, I am sure they will never consent that California, a free State, shall be kept out of the Union, when keeping her out will not help to bring in New Mexico and Utah as free members of the Confederacy.

The second provision made by this bill, Mr. President, is for the establishment of governments for the Territories of New Mexico and Utah. The plan of the President recommends non-action, or, in other words, that these Territories shall depend, for the security and preservation of domestic order, on their own municipal laws and the military governments that have been established in them. Such is his suggestion, as far at least as New Mexico is concerned. I need not say, after the votes I have given, that I do not regard the scheme of adjustment, proposed by the committee in relation to the Territories, as the best or most conformable to the wishes of my constituents, and the spirit of the age in which we live, that could be devised. But I think it is the best that was practicable under the circumstances. In this age of real progress; in the very noon of the nineteenth century, when the fire of liberty first kindled on our own shores is blazing there, and flushing its rays across the broad Atlantic, enlightening the darkness of other lands, and guiding oppressed humanity on the road to freedom, I had hoped that there would be no objection on the part of the representatives of American freemen to declare that territory which was free when we acquired it should remain free forever. I desired that the world, if it should assert we had waged a war of conquest against Mexico, and had despoiled her of her territories, should be compelled to admit at the same time, that we had conferred on them the blessings of good government, free institutions, and a higher civilization. I therefore voted for the Wilmot Proviso. It is, indeed, true that I believed slavery had been abolished in Mexico previously to the treaty of peace; and I believe it remains abolished in the territories acquired by that treaty to the present day. I believed, also, with the distinguished Senator from Massachusetts, (Mr WEBSTER,) that it was altogether improbable that slaves would ever be carried from the Atlantic States, or the States in the valley of the Mississippi, where slave labor is productive, slave property secure, the soil fertile, and markets



convenient, to Territories comparatively barren and difficult of access; and where, according to a majority of opinions, the laws tolerating slavery have been abolished, and remain abolished. It is on the side of Texas, and through her exertions and influence, that slavery will obtain a foothold in these Territories, if it obtain such foothold at all. But as some Senators, as well as other persons, were of opinion that slavery still continued to exist in Mexico, or at least in the Territories acquired from her, I thought it would be wise and proper, in view of this conflict of opinion, to settle the doubt to which it gave rise by express enactment. As every citizen of the United States had an interest in the question, I felt that it was the duty of Congress to resolve it, when it presented itself immediately in the course of legislation. Legislators generally regard it to be their duty to pass declaratory statutes to remove doubts that exist; and it was to do this that I voted for the Wilmot Proviso. And I should have done so, even if I had believed that the laws of nature sufficiently interdicted slavery in these Territories. In this respect I differed with my honorable friend from Massachusetts, (Mr. WEBSTER,) who declared in substance, in his great speech, delivered in this body in March last, that it was useless and unwise to re-enact the will of God, which had interdicted slavery in these Territories by the most irrevocable of laws—the law of nature and of the formation of the earth. I did not think so. I believed then, as I believe now, that it is sometimes both wise and useful to re-enact even His laws, and to add to them, in order to enforce them, human sanctions. For these reasons I voted for the proviso. I thought they were sufficient to justify me in doing so; but others, and a majority, thought differently, and to the will of the majority I submit. The honorable Senator, to whom I have just referred, seemed to think that, under the circumstances, to vote for the proviso conveyed some taunt or indignity to the South. But I desire to say that it was with no disposition to wound the South, to taunt her, or to offer her an indignity, or do her a wrong, that I voted for the proviso. I voted for it because I thought it was right that territory which was free when it became ours should remain free. I had no disposition to do her wrong—to do wrong to any section, or the people of any section. I love the Union, the whole Union. The country, every part of it, between the two great oceans which lave its eastern and western shores, and from the farthest north to the remotest south, is my country—all of it, every foot of it. I love it all; am proud of it all; and rejoice in the prosperity and happiness of it all. I love my own State the best. That which is the nearest to us is the dearest. It is so by the law of our natures. Our own State, our own county, our own home, and those who cluster about our own hearths, are dearer as they are the nearer. But they are all parts of one whole, and loving them we can hardly fail to love it. I therefore repeat, that I would willingly do no wrong to the South or any other portion of the country.

But, Mr. President, I regard the establishment of civil governments in the Territories as not only necessary, but the best possible security, next to the proviso, against the introduction of slavery. I shall, therefore, go for the establishment of such governments as the bill now under consideration provides. I am opposed to the non-action policy for several reasons, though, as I have before stated, I would have been willing, at one time, out of deference to the recommendation of the President, to support it; and the disposition to do so continued whilst I believed “that the property, lives, liberties, and religion of the people of New Mexico were better protected than they ever were before the treaty of cession,” as was the opinion of the President at the time his message was communicated to Congress. This policy, however, never commended itself to me by its own merits. It was one which was every where denounced in Pennsylvania by the Whig party during the Presidential canvass. It was alleged to be the policy of our political opponents, and was repudiated and condemned by the supporters of General Taylor. But recent developments exhibit the objections to it in a new and more striking light.

By the treaty of peace between the United States and Mexico, the former entered into a solemn stipulation with the latter that the benefits of government should be speedily provided for the territories ceded to us. The people of the territories—such of them, at least, as chose to remain—became American citizens, entitled to the benefits and protection of American laws. Are we not bound, then, by all the obligations of good faith recognised amongst civilized men, to carry this stipulation of the treaty into effect? Doubtless we are, unless something has occurred to absolve us from our obligation. If it can indeed be shown that the people are satisfied with a military government, and that their “property, lives, liberty, and religion” are as well or “better protected than they ever were before,” there would be an excuse, at least, for our failure to fulfil our treaty stipulations. But this cannot be done. On the contrary, the people complain loudly of the tyranny, injustice, and oppression of their Governor, and the inefficiency of the government established for their protection. The honorable Hugh N. Smith, the delegate to Congress from the Territory of New Mexico, in an address to his constituents, lately published, deliberately charges the Governor, Lieut. Col. Munroe, with conduct as arbitrary and oppressive as that practised in India by the Governors of the British East India Company, in the days of their most uncontrolled and despotic sway. He asserts that this military governor exercises an absolute control over the miserable mockeries of courts which have been set up, dictating to them who shall be brought to trial and who shall go at large. Nor does he stop here. He charges him with lending his influence, by connivance of the Secretary of War, to aid an attempt which is being made to extend the jurisdiction of Texas over a large portion of New Mexico, and to smuggle slavery into the Territory against the will of the people. The truth of this charge is confirmed, in part at least, by the correspondence of Colonel Munroe and Major Neighbors, published a short time since by order of the House of Representatives. The following is the correspondence:

“FEBRUARY, 23 1850.

“SIR: Having arrived at this point, a commissioner of the State of Texas for the purpose of extending the civil jurisdiction of the State over this Territory, I deem it a proper courtesy due to you as



the military governor of all the territory claimed by the State of Texas as well as New Mexico, to take an early opportunity after my arrival to inform you of the fact, and to solicit, at the request of the Executive of Texas, (Governor Bell,) your friendly co-operation in organizing all the territory properly belonging to this State into counties, (the limits of which have been defined by the late act of the legislature,) and to extend over the inhabitants the civil laws of the State.

"Finding no opposition in this section of the Territory to the extension of the State laws, I have, in accordance with my instructions, issued writs of election; and there will be a complete organization of this county, (El Paso,) which extends from sixty miles below El Paso to twenty miles above San Diego, and due east from each point to the Pecos river.

"So soon as possible after the celebration of this election, I shall visit Santa Fé, when I shall have the honor to submit to your inspection my instructions from the Executive of this State, with such other information in relation to my mission as may be deemed proper.

"I have the honor herewith to enclose a copy of his excellency Governor Bell's message, as well as his address to the inhabitants of this Territory; also, a package addressed to you by the editor of the Western Texan newspaper at San Antonio.

"I have the honor to be, very respectfully, your excellency's obedient servant,

"ROBERT S. NEIGHBORS,

"State Commissioner.

"His excellency Brevet Col. JOHN MUNROE,

"Governor of New Mexico, &c., Santa Fé."

"HEADQUARTERS, NINTH MILITARY DEPARTMENT,

"Santa Fé, New Mexico, March 12, 1850.

"SIR: Having been duly notified by Major Robert S. Neighbors of his arrival, as a commissioner of the State of Texas, for the purpose of establishing the civil jurisdiction of the State over this Territory, your command will observe a rigid non-interference with him in the exercise of his functions, and equally avoid coming in conflict with the judicial authorities created by that State.

"I am, respectfully, your obedient servant,

"JOHN MUNROE,

"Brevet Col. United States Army, commanding department.

["Addressed to the several officers commanding posts in and near the Territory claimed by the State of Texas."]

This correspondence was communicated to the House by the Secretary of War, on the 16th of May, in pursuance of its call previously made; and it proves two things: first, that Texas is engaged in extending her civil jurisdiction over territory heretofore regarded as a part of New Mexico, and to which the jurisdiction of Texas, whilst an independent government, never reached; and, second, that the military governor, Lieut. Col. Munroe, has given orders to the officers commanding posts in New Mexico to "observe a rigid non-interference" with the agent of Texas, sent by the Governor of that State to seize upon the Territory of New Mexico, and organize it into counties, subject to Texan rule. Major Neighbors boldly avows that he is the "commissioner of the State of Texas, appointed for the purpose of extending the civil jurisdiction of the State over this territory," and asks "the friendly co-operation" of Col. Munroe in organizing the territory, and extending over the inhabitants thereof the civil laws of Texas. Is there not evidence in this epistle of Major Neighbors to Col. Munroe to awaken suspicion, at least, that the former had assurances from some quarter that he would find Col. Munroe friendly to his object, if not ready to further the prosecution of it? Would he have thus written, communicating to him his object, if he had not been previously advised that he would find no obstruction to his design in that quarter? If he had not been so advised he certainly exhibited both want of prudence and want of tact. But the response of Col. Munroe to his letter shows that, if he had no previous assurance of the friendliness of his disposition, he guessed accurately what it would be. That response was an order to his subordinates commanding posts in the territory to observe a "rigid non-interference with the agent in the exercise of his functions." So far, certainly, Texas had no right to complain of the conduct of Col. Munroe. It was every thing she could desire. To stand neutral himself, and to require a rigid non-interference on the part of his subordinates, was to encourage Texas. He was the Governor of New Mexico, appointed to protect New Mexico; and was in the possession of large, nay, almost unlimited powers for that purpose, if we may judge from his more recent acts. To stand neutral, therefore, and to require his subordinates to observe a like neutrality, was at least a tacit invitation to Texas to continue her encroachments. If she had done so, and carried out her design, what would have been the consequence? Why, undoubtedly, the extension of slavery contemporaneously and co-extensively with her jurisdiction. But latterly, it would appear, he has changed his purpose, and with it his policy. For a while he was willing to permit Texas to extend her jurisdiction over the greater part of New Mexico, but more recently he has assumed the right to order a convention to form a State constitution, fixing the number of delegates from the several districts, and the time and place they should assemble. By what authority he has done this does not appear. From the correspondence communicated to the Senate, in answer to the resolution of my friend, the Senator from Mississippi, (Mr. Foote,) it does not appear that he derived any such authority from the Executive. We are, therefore, left to infer that he acted without authority. But the most important inquiry is, what is to be the consequence of his act? Is it to simplify or complicate the condition of things in the Territory? It is to be feared that it will tend to complicate them. The people themselves prefer a territorial government, and have besought Congress to establish one.



They have sent here a Delegate for that purpose, and have signified their desire in this respect in every possible way. If they have obeyed the proclamation of Col Munroe, and elected delegates to a convention to form a State constitution preparatory to an application for admission as a State, they have done it in despair of obtaining a territorial government at the hands of Congress. But what is to be done? Admit her as a State into the Union, or give her, according to her desire, a territorial government? If her population, resources, and the intelligence of her people qualified her for admission, I would say at once, admit her and end this bootless contest. I cannot, however, shut my eyes to the difficulties that will environ her application. Every objection, well-founded or ill founded, that has been urged against the admission of California, will be urged with three-fold force and justice against the admission of New Mexico. Her population is insufficient; her resources inadequate to her support as a State; and the manner of her course preparatory to admission much more irregular than that of California. As I have stated already, the American population of the Territory does not exceed two thousand souls; nor is it likely that it will be greatly increased for many years to come, owing to causes to which I have before adverted. The intelligence of the native population is, for the most part, at very low ebb, rendering them unsafe depositaries of the rights and privileges of citizens charged with the duty of self-government. All these things, it is easy to foresee, will be urged against her admission; and how are they to be answered? There is but one answer to them. The objections are just. No one can gainsay them. But if Congress will not do its duty, and comply with the stipulations of the treaty, guarantying to the people the benefits of a government adapted to their condition, I, for one, shall vote to admit New Mexico into the Union as a State, provided she presents herself with a constitution republican in form. She has a right to government; and any form of government is preferable to the military government which she has endured for the last two years.

But, sir, I hold that the wishes of the people of New Mexico should have some weight in the determination of the question whether a territorial government should be established or not. From their Delegate, as I have already stated, we learn that the people desire a Territorial government; and from a letter addressed to him by one of his constituents, and which was lately published, we learn the same thing. The following is an extract from it:

“ST. LOUIS, (Mo.) May 24, 1850.

‘HON. HUGH N. SMITH, *Washington* :

“DEAR SIR: I left Santa Fé on the 17th of April, and arrived here two or three days since; and believing that events which transpired just previous to my leaving, and those transpiring, with their causes, &c., may be of interest to you as Delegate from New Mexico, I have determined to write to you.

“A large majority of the people of the Territory have manifested, time and again, their preference for a Territorial government, and at the very last trial of the question it was shown, even in Santa Fé, the stronghold of the State party, that there were ten to one in favor of a territorial government; but since the arrival of the Texan commissioner, who comes with threats in his mouth, ‘that if the jurisdiction of Texas is not submitted to quietly, Texas will march a sufficient force into the country to compel submission,’ an almost universal cry has been raised to organize a State government, in the belief that the government they have asked for and desire, above all others, will not be given them during this session of Congress.

“They are determined to resist Texas in *every way* until resistance is impossible, and that they may make that resistance feasible and effectual, they must have a government; and a State government being the only one within their reach, they have resorted to that, not from choice but from necessity.

“The means placed by the existing laws in their hands will be used against Texas while those means will do, and when they fail, resort will be had to *any means* which can be successfully opposed to her. If the minions of Texas usurp authority in New Mexico, they will be punished by the laws of the Territory as usurpers. You need not imagine, however, that because they have commenced organizing a State government for a single particular purpose, that therefore they are dissatisfied with your efforts at Washington, or that they really wish any other government than that which they sent you to procure; on the contrary, let the Congress show that the wishes of the people of the Territory will be regarded, and that moment the scheme of a State government will be abandoned at once, and they would return at once to the demand for a territorial government.

“The feeling which I have attempted to show is not that of Santa Fé alone, but of the whole people—Americans and Mexicans—and it is expressed by them in their resolutions and private letters, with a bitterness greatly augmented by the course which Texas has seen fit to pursue; and although, should the Government of the United States turn them over to the tender mercies of Texas, they would submit to the sentence, yet I am sure that it could not be any thing but a great misfortune to New Mexico and Texas, but also to the United States, as bloodshed would be the result in the end. The whole country is fearfully exasperated against Texas; and although her commissioner is every where treated with respect, as the representative of one of the States of the Union, yet it is with that cool determined forbearance which shows very clearly what may be expected from them the moment they find their rights invaded by those whom they have no great reason to love.

“Since your election by the convention in September last, I have been almost all over the Territory, and conversed freely with the people on these and other subjects, and have reason to know, and assure you candidly, that the facts which I have above stated are true. I have gone from Santa Fé to El Paso, on one side of the river, and back again on the other, and from the extreme western settlements to the eastern, and beside have conversed with others from all the various parts of the Territory, and find their observations agree in every particular with mine.”

From this it is evident that the first wish of the people is for the establishment of a territorial gov-



ernment; and that if they have thought of forming a State government, it was only because they despaired of protection from the United States, through the instrumentality of a territorial government. This letter proves likewise the bitter animosity which exists against Texas, and the determination to resist the attempt which she is making to extend her jurisdiction over New Mexico; and every thing contributes to show the necessity of affording speedy protection to the people. And one other thing, I think, is manifest, which ought to influence the votes of Northern Senators at least in favor of the bill now under consideration. The confusion, disorder, and lawlessness which now prevail in the Territory, afford the only chance, in my judgment, for the introduction of slavery into it. Advantage may be taken of this condition of things to entail upon the people an institution totally repugnant to their wishes and feelings, if the testimony of their Delegate is to be relied on. I have already referred to the stipulation in the treaty of peace between the United States and Mexico, which requires that the people of the Territories shall be admitted as soon as possible to the enjoyment of all the rights of American citizens. But, independently of the obligation imposed on us by the treaty to afford to them the benefits and blessings of civil government, we are bound to do it by the ordinary duties incumbent upon us as the representatives of all the people of the republic. It is our duty to give them civil government, in order that laws for their protection may be enacted, and security afforded to them in all the diversified relations of life; and failing to do this, we fail in the performance of one of our most imperative duties as legislators. It is not enough that a military government, the most imperfect, and from its nature the most arbitrary and tyrannical of all governments, has been given to them. They are not satisfied with this. It has furnished them no protection. Their men, they allege, have been murdered by the Indians, and their women and children carried into captivity; while at the same time they complain that they are, through its instrumentality, to be subjected to the domination of Texas and the infliction of slavery. Why, then, shall we continue to withhold from them the advantage of civil government, and the great republican American prerogative of legislating for their own security and their own advantage? If these Territories be free, as it is asserted, and as most Northern men believe, why not put it into their own power, by giving them governments, to remain so, if it be their wish? Whether they are free or not, is a question which I propose briefly to discuss.

I presume no Northern Senator doubts that slavery was abolished in Mexico previously to the late war with that country, and that it remains abolished in the territories ceded to the United States at this time. I know that while some Southern Senators concur in this view of the question, that there are others, and probably a majority, who dissent from it. I propose very briefly to examine this question; not that any great necessity exists for it here, after the very able arguments we have heard, but chiefly for the sake of presenting the whole subject in a connected view to my own constituents.

On the 15th day of September, 1829, by a decree of Guerrero, at that time dictator of the Republic, by authority of an act of the Mexican Congress of a previous date, slavery was expressly and most emphatically abolished in all the territories of Mexico. The act of abolition was to operate presently, to take effect upon that very day. It is true it contained a provision for indemnity to the owners of slaves; but the efficacy of the act was not dependent on the payment of the indemnity or of any other contingency. It was perfect in itself. The operative words were, "*slavery is abolished in the Republic. Those who until to-day have been considered slaves are consequently free.*"

It has been objected to the validity of this decree, by the honorable Senator from Georgia, (Mr. BERRIEN,) that the Mexican Congress had no power under the Constitution of the Republic to clothe Guerrero with absolute power, or power to free the slaves. But the power of the Mexican Congress to do this was in my judgment most conclusively maintained by the Senator from Wisconsin (Mr. WALKER,) by reference to the history of the Mexican government and its political antecedents. But suppose it did not possess the power, and that Guerrero is to be regarded as a pure usurper. What follows then? That the acts of his government were invalid, and cease to bind from the period of his deposition or overthrow? Not at all. The acts of a ruler *de facto*, or of a government *de facto*, are as binding on the successor as though they were the acts of a ruler or government *de jure*. This is the law of England and the law of civilized nations every where. In England and in France this doctrine has always been recognised; and both countries furnish many instances in which it has been acted upon. In England, during the fluctuating fortunes of the rival houses of York and Lancaster, this doctrine was constantly acted upon, notwithstanding the lawlessness of the times and the unquenchable animosity of the rival factions towards each other. After the civil wars, and subsequent to the restoration of the Stuarts, the doctrine was again exemplified. Not only the monarchy, but likewise its constitution, had been overthrown by Cromwell; yet, after the restoration, not only were his acts recognised, but the decisions of his judges continue to be quoted in the courts, as authority, to the present day. A contrary doctrine would upturn and destroy civil society.

But the decree of Guerrero needs no authority drawn from other sources to sustain it. It is recognised, affirmed, and in effect continued by an act of the Mexican Congress, passed the 5th day of April, 1837. This act declares "*that slavery is abolished without exception in the whole Republic*;" and it then provides that the owners of slaves manumitted by the decree of the 15th of September, 1829, (the decree of Guerrero) shall be indemnified for their value. This settles the question, and indeed the eloquent Senator from Louisiana (Mr. SOUTLE) admitted in his very able speech, that slavery was abolished and does not now exist in Mexico. It has been contended, however, by the honorable Senator, as well as others, that notwithstanding this, slavery exists legally in the territories ceded by Mexico, now that they have become a part of this Republic. With due deference to him and to them, I think the whole question was yielded when it was admitted that slavery had been abolished in Mexico previously to the peace by which the territories were acquired. If such admission be not a surrender of the whole question, then two propositions must be established: first, that slavery in the United States is not merely a civil relation, tolerated in certain localities, but the law of the Constitution—a fundamental,



active, essential principle of it; and, second, that the laws of a State, municipal as well as political, are *proprio vigore*, by their own force, carried into and made to prevail in its territorial acquisitions. I deny both of these propositions totally. The first will hardly find an advocate here or any where. No one will contend, I presume, that it was any part of the design of the Constitution to establish slavery any where. It only tolerated it as a local relation, or institution, existing in some of the States, and as such gave it protection. There is not a word or syllable in the Constitution which would serve as the basis of an argument that slavery is a national institution, and as such to be protected, enforced, or propagated. The second proposition is more plausible than the first, but not less unsound. I shall examine it briefly.

This proposition is, that when one State is subjugated by another, or becomes incorporated with it, the laws of the former are *eo instanti* supplanted by the laws of the latter, and cease to exist. It is not denied, Mr. President, that the political laws of a territory, conquered, or otherwise acquired by another State or nation, cease to exist from the moment the acquisition is complete, whenever they are in conflict with, or in their scope or spirit repugnant to, the laws of the latter. But this is not the case with the civil or municipal laws. It is admitted by all the authorities that these remain in force until expressly abrogated by the law-making power of the conquering or acquiring nation. This was admitted by the honorable Senator from Georgia, (Mr. BERRIEN,) in the ingenious and learned argument which he addressed to the Senate some three or four months since. This being admitted, the only question which remains to be decided is, whether slavery is to be classed amongst the public and political laws which constitute the form of government, and direct the manner in which the public authority is to be exercised, or amongst the civil and municipal laws, which regulate the rights and conduct of individuals amongst themselves.

Vattel declares, that "the laws made directly with a view to the public welfare are political laws; and in this class those that concern the body itself and being of society—the form of government—the manner in which the public authority is to be exerted—those, in a word, which together form the constitution of the State, are the fundamental laws." "The civil laws," he continues, "are those which regulate the rights and conduct of individuals amongst themselves." Thus, it appears, that the political laws of a State are those which form the body and being of society, the system of government, and the manner in which the public authority is exerted; in other words, the laws which form the constitution are political laws. I have already attempted to show that slavery, although recognised by the Constitution, was not established by it, and does not exist by virtue of it; that it is no fundamental, essential part or principle of it, which it is necessary to maintain in order to its existence or efficacy. Blot slavery from the system if you please, and yet the Constitution will be unimpaired, and all its efficacy will remain. You have, by doing so, withdrawn, it is true, an object from its protection, but you have done nothing more. Slavery, instead of being an essential part or principle of the Constitution, which it is necessary to maintain in order to preserve its integrity and efficacy, is, on the contrary, a condition, a mere local condition, repugnant to its general design of "establishing justice and securing the blessings of liberty," which it tolerates, but does not enjoin. This being so, does it fall far short of involving an absurdity, to assert that the Constitution, which established slavery nowhere, and which only tolerates it where it is, should nevertheless carry slavery with it as an inseparable companion wherever it goes? The Constitution does not enjoin slavery any where. The States in which it exists may abolish it to-morrow, and the Constitution suffer no violation or detriment therefrom. But, though it does not enjoin slavery, though slavery may be abolished without violating it in every State in the Union, yet, by some inconceivable process, it is regarded by some as an instrument for the propagation and extension of slavery. But, sir, it never can be true that the Constitution, by its own force, devotes to slavery every foot of soil to which it is extended.

I think, Mr. President, it is clear from the definition of what constitutes the political laws of a State, and the light drawn from the Constitution itself, that slavery does not exist by force of them, but by force of local municipal laws. It is by the latter class of laws that the relation of master and servant (the relation most nearly approaching that of slavery,) exists, and is regulated, in England and in the various States of this Union. And it is by the municipal laws of the States that slavery exists and is regulated, wherever it is found in the United States. But we have seen that the civil and municipal laws of a State are not abrogated or abolished by passing under the dominion of another State. Let us now see what our own courts say on the subject. The Supreme Court of the United States has frequently recognised the doctrine I have asserted, namely, that it is only the political laws of a country which are abrogated or annulled when it passes under the sovereignty of another, either by conquest or purchase; while the civil and municipal laws—those which relate to property and regulate the conduct of individuals amongst themselves—remain in force until repealed or supplied by positive enactment. This doctrine was asserted by the Supreme Court of the United States, in a case in 1 Peters' Reports, page 542; and by the same tribunal in the case of the United States *vs.* Percheman, 7 Peters' Reports, page 86. The State courts, both North and South, have decided that slavery exists by force of the municipal laws of the States, and by force of the municipal laws alone. This was decided in the District Court of the United States for the district of Ohio, in the case of Jones *vs.* Vansant, 2 McLean's Reports, p. 596; and in Illinois, in the case of Jarrot *vs.* Jarrot, 2 Gilman's Reports, p. 8. In both these cases there was an elaborate examination of the question, and the opinion of the court is well sustained by the authorities on which they were founded. The same question was decided in Mississippi, in the case of Harry and others *vs.* Decker and Hopkins, Walker's Reports, page 42; and, again, in the case of the State of Mississippi *vs.* Isaac Jones, reported in the same volume, page 86. The Supreme Court of Louisiana declares, in the case of Lundsford *vs.* Coquillon, 2 Martin's Reports, page 402, "that the relation of owner and slave is, in the States of this Union, in



which it has a legal existence, a creature of the municipal law." And the same doctrine is asserted still more broadly, if possible, in the case of *Rankin vs. Lydia*, 2 Marshall's Kentucky Reports, page 70. Several of these authorities have been already referred to and commented on for the same and other purposes by the Senator from Wisconsin, (Mr. WALKER.)

It will be seen from the cases referred to, that if repeated adjudications can settle a question, this one has been settled abundantly. North and South, in the State courts and in the Supreme Court of the United States, wherever the question has arisen, it has been decided that slavery exists by virtue of municipal laws alone; and that the municipal laws of a State remain in force, though the State should pass under the dominion of another, and its sovereignty become extinct. Slavery having been abolished in Mexico, and the municipal laws of such of its territories as were ceded to the United States remaining in force, it follows that slavery cannot exist in them.

But before quitting this branch of the subject, I desire to notice very briefly a position assumed by the honorable Senator from Louisiana, (Mr. SOULE,) in support of a doctrine contrary to that which we have maintained. He assumed that when the American army entered Mexico, and occupied her provinces, the laws of Mexico were *pro tanto* suspended—at least her public and political laws; and he then proceeds to ask the question, when and how they were revived, and once more put in force. Clearly, I think, the honorable Senator was mistaken in supposing that the mere seizure and military occupation by one belligerent of a province belonging to another, has the effect of suspending or abrogating the laws of such province, whether political or municipal. The effect of seizing upon and holding military possession of the territory, or part of the territory, of an enemy, may be, and generally is, to render the laws silent, and suspend their execution by shutting up their courts; and to this effect is the classical authority, *leges silent inter arma*, quoted by my honorable friend, if he will permit me to designate him. In the fear, confusion, and violence consequent upon the invasion and military occupation of a province or territory by the army of an enemy, the administration of the laws generally ceases; but the laws themselves are not suspended, further than they would be by the prevalence of pestilence, famine, or contagious disease, or other cause, rendering their execution temporarily dangerous or impracticable. The constitution and laws of a State which sends forth an invading army do not follow it into the invaded country to operate over it, or on the people of it. If they follow it at all, it is only in a very restricted sense, operating on the invaders *inter se*, in the form of the rules and regulations of war. For all other purposes, the law of nations is the law of invaders. Thus it will be seen, that the basis of the Senator's argument is swept away; neither political laws nor municipal laws being suspended or abrogated by military invasion and occupancy. The answer, therefore, to the question, if the laws were suspended how were they revived, is, *that they were not suspended, and needed no revival*. But, at any rate, the doctrine I have maintained would not be affected, even if the view presented by my honorable friend, that the political laws are suspended by military invasion and occupation was correct; the courts having decided that slavery is the creature of the municipal laws, and the municipal laws alone.

To prove that the view which I have taken of the subject is correct, I beg the attention of the Senator to the language of the Supreme Court of the United States, in a case in 1 Peters' Reports, page 2:

"The usage of the world is, if a nation be not entirely subdued, to consider the holding of conquered territory as a mere military occupation until its fate shall be determined by the treaty of peace. It be ceded by the treaty the acquisition is confirmed, and the ceded territory becomes a part of the nation to which it is annexed, either on the terms stipulated in the treaty of cession, or on such as its new master shall impose. On such transfer of territory, it has never been held that the relations of its inhabitants with each other undergo any change. Their relations with their former sovereign are dissolved, and new relations are created between them and the government which has acquired the territory. The same act which transfers their country, transfers the allegiance of those who remain in it, and the law which may be denominated political is necessarily changed, although that which regulates the intercourse and general conduct of individuals remains in force until altered by the newly constituted power of the State."

And further on, the following language is used:

"It has already been stated that all the laws which were in force in Florida, while a province of Spain, those excepted which were political in their character, which concerned the relations between the people and their sovereign, remained in force until altered by the Government of the United States. No laws could then have been in force but those enacted by the Spanish Government."

There is also another authority. I read from 7 Peters' Reports, page 86:

"It may not be unworthy of remark that it is very unusual, *even in cases of conquest*, for the conqueror to do more than to displace the sovereign, and assume dominion over the country. The mode of acquisition of nations, which has become *law*, would be *violated*; that *sense of justice and of right*, which is acknowledged and felt by the whole *civilized world*, would be *outraged*, if private property should be generally confiscated and private rights annulled. *The people change their allegiance; their relation to their ancient sovereign is dissolved*; but their *relations to each other* and their rights of property remain undisturbed. If this be the modern rule, even in cases of *conquest*, who can doubt its application to the case of an *amicable cession of territory*?"

From the whole scope of the arguments contained in these extracts, it is evident that the laws of a province or territory are not suspended or abrogated by the invasion and military occupation of it by an enemy. In the language of the court, "the holding of conquered territory" is to be considered as a mere military occupation of it, until its fate is determined by the treaty of peace;" and *then, if*



it be ceded, the relations of the people with their former sovereign are dissolved, and the law, which may be denominated political, is necessarily changed. But it is the cession or conquest which works the dissolution of the allegiance of the people and the change of the political laws, and not the invasion and possession by the enemy.

Before proceeding to notice another argument of the honorable Senator, I desire to recur to the question which he propounded, and the answer which he gives to it. Speaking of our armies entering Mexico and occupying it at various points, he asks: "Now, what became of the Mexican laws and constitution during the invasion, and while the American armies took and held possession?" And he answers that "the law of nations would pithily respond with the *leges silent inter arma*, which attests the presence of the conqueror, and proclaims the supremacy of military domination." But the superior humanity and characteristic forbearance of American invaders left them in the free enjoyment of those civil and religious rights and privileges which the treaty of peace afterwards more formally, but just to this extent and no more, guaranteed and assured to them; and so things remained during the hostile occupation. As to all public political rights, whether derived from the Mexican law, or the higher sovereign authority of her constitution, they were of course, and of necessity, superseded while that occupation lasted." If the public political laws of Mexico were superseded during the period of the invasion, and while the occupation lasted, it follows, *ex vi termini*, that others took their place—those of the United States, of course. Being superseded, they ceased to exist, temporarily at least for two conflicting constitutions or systems of political law could not co-exist, and so the honorable Senator admits. If they had ceased to exist, they could not be violated. Where there is no law there can be no transgression. Now, suppose some Mexican officer, commanding a fortress in some province occupied by the American army, had sold it to the American general, would he have been guilty of treason? Undoubtedly. But treason is an offence against the Government, a political offence, an offence against the political laws of the State; and it will be said that the Mexican Government had not ceased to exist, and that elsewhere, except in the territories occupied by the invading army these laws were in force; and that treason, wherever committed, was an offence against the Government and against them. Suppose, however, and the supposition is legitimate, that such occupation as our army held of certain provinces had extended to all the provinces of the Republic. What then? Why, that the laws being suspended, superseded, and for the time being out of existence, there could be no offence against them. Such a position as that assumed by the Senator, in my judgment, is no maintainable. Military invasion and occupation do not suspend or abrogate the laws; they only prevent their execution for the time being.

I will now notice another argument used by the honorable Senator to fortify his position that slavery has a legal existence in the territories acquired from Mexico, notwithstanding its abolition in the mother country. It is drawn from the fact that slaves accompanied our army during the invasion and that even Gen. Taylor was attended by slaves whose services he exacted during the whole campaign. This, he asserts, so upright a man as the old hero of Buena Vista would not have done, if he had considered Mexico a jurisdiction in which slavery was prohibited. This argument was, I presume, used as a mere playful interlude to the more serious ones which preceded and followed it, and which were enforced with so much ingenuity and elegance of diction; for the honorable Senator could not have been in earnest in supposing that either General Taylor or any officer or soldier of his army, would stop to inquire whether his conduct squared in every particular with the requirements of Mexican municipal law. If General Taylor had felt himself restrained in the conduct of the war by the fear of infringing the Mexican statutes, his first look-out would have been for the penalty for *assault and battery*; and his next would have been to consult a lawyer to know whether he would make himself liable to an action of *quare clausum fregit*, by entering the close and treading down the grass and herbage of the Mexicans! But, seriously, what is there in the fact that slaves accompanied the army in its progress in Mexico, and came back slaves, and continue to be so? Is it a matter of surprise, that, in the midst of a struggle threatening the existence of the nation, and which ended virtually in its dismemberment, the Mexican tribunals did not advert to the fact that a relation existed between individuals in the enemy's army which the laws of Mexico condemned? By what process does he suppose an American officer and his slave could have been brought before a Mexican tribunal to have judgment pronounced upon their rights? He has said himself that the laws were suspended. This I do not admit; but the Mexican tribunals were closed, and their judges fugitive. And it was no time for the adjudication of rights between individuals in the enemy's camp, even if the swords of the conquerors had not been stronger than the maces of the tipstaves. But if he mean instead of the Mexican laws giving freedom to the slaves, that having sojourned in Mexico (Mexico being free) they are entitled to freedom at home, I have only to say, that if it even be so, (of which I am by no means certain,) there has been no trial of the question, and therefore no legitimate inference to support the view of the subject which he has taken.

The last argument of the honorable Senator to which I desire to call attention is that which he draws from peonage—a condition of a class of society existing by authority of the Mexican laws. He assumes, and justly I think, that if slavery exist by force of municipal law, so also does peonage; and that if the municipal law, abolishing slavery, be in force in the Territories, it must also be in force to establish peonage. I do not see how this conclusion is to be escaped from, however repugnant such a relation may be to our feelings and sympathies. That it is not repugnant to the Constitution of the United States, the honorable Senator has proved, by showing that the constitution of Vermont not only recognised, but established a condition precisely similar to that of Mexican peonage. If the constitution of the United States tolerated such a condition in Vermont, it will do so likewise in New Mexico and Utah. I have no doubt, therefore, that peonage, being a creature of the municipal law, exists at present in the territories ceded to us by Mexico; and, indeed, I am informed that such is the fact, though to a very limited extent.



There is one other ground on which it is contended that slaves may be carried to and holden in a portion of New Mexico; that portion of it which is alleged to have been conquered by and to belong to Texas. In the first place, allow me to say that it is extremely doubtful whether any part of New Mexico belongs to Texas by conquest or otherwise. But, be this as it may, the laws of Texas were never effectually extended to New Mexico; and if they were not, the ancient laws remain in full force. I have already shown that none but the public political laws of a conquering State are carried by conquest into the conquered territories; and that the civil and municipal laws of such territories remain in force until expressly repealed. Such was the decision of the Supreme Court of Mississippi in the case of *Harry and others vs. Decker and Hopkins*; Walker's reports, page 42. The language of the court is as follows:

"During our revolutionary war, it (the Northwestern Territory) was conquered by the arms of Virginia; but there has been exhibited no evidence to show that the laws of Virginia were ever extended to that country after the conquest, or that Great Britain, after the treaty of 1763, by which she obtained it, ever changed the laws then existing in the province. I have carefully examined the acts of Virginia, and can find no provision extending its laws to that district of country. I think, then, that it is undeniable that the laws as they existed while it was a province of France were the municipal laws of the country."

And further on, still pursuing the subject, and speaking of the Northwestern Territories, the court says:

"As conquered countries, they were subject to such laws as the conquerors chose to impose; but that the Legislature of Virginia, not making any change in their laws, the ancient laws remained in full force."

Thus it appears that even if the claim of conquest set up for Texas be true, still, if she did not extend her laws to her conquest, "the ancient laws remain in full force," and slavery is excluded.

I have thus, Mr. President, endeavored to show that we are enjoined by the stipulations of the treaty, as well as by the ordinary duty incumbent on us as enlightened legislators, to afford governments to the territories acquired from Mexico; and that this duty becomes the more imperative, in view of the confusion and disorder which prevail, and the great anxiety of the people for the establishment of territorial governments. I have also endeavored to show—and so far, at least, I think I have been successful, that slavery has little chance to find a foothold in them, unless the non-action policy be adopted. If it be, in the confusion and lawlessness which prevail, Texas may swallow up New Mexico, and plant slavery upon the soil of the Territories. In this, in my judgment, consists the only danger. But give to them the benefits of government, with courts to enforce the existing laws, and, my word for it, the withering influence of slavery will never reach them. I have no apprehension that it will ever be carried thither from the old States on the Atlantic, or the newer ones on the Mississippi. It would be an act very little short of absolute madness in the people of any of these States to carry their slaves across lands as fertile as the sun shines upon, perfectly adapted to slave labor and slave products, and convenient to good markets, in order to reach the almost inaccessible and barren regions of New Mexico and Utah. Sir, if not an act of madness to do so, it would be one of the extremest folly. In the great fertile valley of the Mississippi are millions of acres of land which the foot of industry has never trod, and the hand of cultivation never touched, waiting to be rendered fruitful. These lands are adapted to the growth of sugar, cotton, and tobacco, and lie within the limits of slave States, where the institution is both popular and secure. Is it likely, then, that masters would carry their slaves to a country which is barren in the main, and where it is more than likely they would become free the moment they set their feet upon its soil? There is one other fact which seems to me conclusive against slavery ever reaching New Mexico and Utah from the Atlantic and Mississippi States. It is the price of labor. In these last mentioned States the labor of a slave is worth from \$125 to \$150 a year. In New Mexico labor can be employed at the rate of from \$40 to \$50 a year. I repeat, therefore, give governments to the Territories, with tribunals to execute the laws, and, though we failed in applying the Proviso, we shall succeed in excluding slavery.

The next provision of the bill is for the settlement of the northern boundary of Texas. The bill provides that this boundary shall be a line "beginning at the point on the Rio del Norte, commonly called El Paso, and running up that river twenty miles, measured by a straight line thereon, and thence eastwardly to a point where the hundredth degree of west longitude crosses Red river, being the southwest angle in the line designated between the United States and Mexico, and the same angle in the line of the territory set apart for the Indians by the United States." It also provides that in consideration of the cession to the United States by Texas of the territory lying north of the proposed line, and now claimed by her, she shall receive a certain sum of money to be appropriated to the payment of that portion of the debt of Texas for which her revenues were pledged previously to annexation, and after the payment of that portion of the debt of Texas for which her revenues were pledged previously to annexation, and after the payment of such portion of the debt, the balance, if any, to be applied to such objects as Texas herself may think proper.

I presume no one will deny the importance of settling the disputed boundary between Texas and New Mexico. I have already shown that there is great danger of a collision between the adverse parties. A state of fearful exasperation against Texas, on the part of the people of the Territory, exists; and that exasperation is becoming more embittered every day by the encroachments of Texas. As I have previously stated, in the course of these remarks, Texas is engaged in establishing her jurisdiction over a large portion of New Mexico, which was never subjugated by her arms nor subject to her laws. A commissioner appointed by Texas is now at work organizing counties and extending her jurisdiction, and every thing indicates a determination on her part to swallow up all of the Territory of New Mexico that is valuable in her claim. Something, therefore, is necessary to be done to ascertain and



settle the boundary, so that Texas may be restrained within her own limits. If it be not done, New Mexico will be overrun, and her territory, now free, doomed to slavery against her consent.

The honorable Senator from New Jersey (Mr. DAYTON) says that the Government has power to protect New Mexico from the encroachments of Texas, and that if she continues them she may "find a lion in her path." According to his view of the case—and it was a strong one, though my confidence in its soundness has been somewhat shaken by the argument of the Senator from Georgia, (Mr. BERRIEN)—her encroachments have already extended hundreds of miles, and yet the lion sleeps. His roar has not alarmed Texas, nor turned her back from her design. But, dropping figures and adopting facts, what do we see? The commander of the United States forces and military governor of the Territory, Lieut. Col. Munroe, quietly acquiesces in the encroachments of Texas, and issues orders to his subordinates to observe a "rigid non-interference"—in other words, not to molest Texas in the attempt she is making to extend her authority over New Mexico. With the Senator from New Jersey I admit the power of the Government of the United States to protect New Mexico and check Texas in her encroachments; and I had supposed that it would consider it its duty to preserve the *status quo* the parties stood. But it seems it has adopted a different line of policy—that of neutrality—on the ground, I presume, that it would be wrong to interfere until the question of boundary between the parties is settled. This proves the necessity of a speedy adjustment of it by Congress. It is evident there is no security for New Mexico from any other quarter or by any other means.

But it is said the sum proposed to be paid is altogether out of proportion to the territory which Texas is required to cede to the United States, even if her claim to it were a valid one. My own impression has been that the claim of Texas to a very large portion of the territory in dispute was a merely colorable one, though I confess my impression, in that respect, was shaken by the argument of the Senator from Georgia (Mr. BERRIEN) and that of the Senator from Texas, (Mr. RUSK,) made some days since. But I have never examined the question thoroughly for myself, and therefore shall not pronounce any decided opinion upon it. I regard it, however, as a fair question for settlement, and shall vote for such sum as I believe to be a proper one under all the circumstances.

The whole area of Texas, in square miles, according to her act of boundary, passed in 1836, is 325,000; and the number of square miles north of the line proposed by the bill is about 108,000, or one-third of the whole. All the territory north of this line is to be ceded to the United States in consideration of a sum of money to be paid to her. The amount was not definitely agreed upon, for reasons already stated by the chairman of the committee, (Mr. CLAY.) But means will not be wanting to approximate to what will be a proper sum. A few days since the honorable Senator from Missouri (Mr. BENTON) informed the Senate that he had looked into the matter, and was prepared to give reasons for such sum as he should indicate when the subject should come up in such form as in his judgment would be proper. Now, Mr. President, although the honorable Senator has not intimated what would be a proper sum to be paid to Texas for the portion of the territory lying north of the proposed line, he has nevertheless furnished us with a clue by which his opinion on the subject may be approximated. At an early period of the session he introduced into the Senate a bill, (I think No. 56 upon our files,) the object of which was to reduce the limits of Texas, and create hereafter a new State. It is true the boundary proposed by this bill is not the same as that proposed by the bill now under consideration; but it is not so entirely variant from it as not to be useful in ascertaining the sum proper to be paid. The bill of the honorable Senator proposes *fifteen millions* of dollars as the sum to be paid to Texas for her relinquishment of the territory exterior to the boundaries which he has prescribed for her. The sum proposed by the Senator from Missouri is a large one—larger than I would be willing to pay. I am disposed to be liberal to Texas, and to put her in a situation to be just to her creditors. And though I do not entirely concur in the opinion expressed a few days since by the honorable Senator from New York, (Mr. SEWARD,) that the United States are bound in justice and equity to pay the claims of the creditors of Texas all that is due to them, I agree that we are bound to pay that class of creditors to whom she had pledged her revenues previous to annexation. The U. States having received and appropriated these revenues to their own purposes, are bound in equity and good conscience to pay the creditors to whom they were pledged. If the parties to such a transaction had been individuals, I have little doubt that the party receiving the money would be compelled by a court of chancery to account to the party to whom it was pledged. But the Senator from New York goes further, and holds, as I have just stated, that the United States ought to pay the whole of the debt due by Texas. If this be so, the sum proposed by the Senator from Missouri, (Mr. BENTON,) allowing for the deduction that should be made from it, in consequence of the smaller amount of territory the bill under consideration requires her to cede, would probably not be too much. But whether the view of the Senator from New York be right or not, I am for dealing liberally with Texas. I am willing to pay her the three or four millions due to the creditors to whom she had pledged her revenues, and a liberal sum, in addition, for the territory which it is proposed she shall cede to the U. States. This territory, as I have before stated, contains about 108,000 square miles, or nearly 70,000,000 of acres.

The Senator from New Jersey (Mr. DAYTON) supposes that the territory proposed to be ceded to the United States is of very little value, and he arrives at this conclusion by comparing it with California, New Mexico, and Utah, for which we paid but \$15,000,000. But he forgets that these \$15,000,000 were but a small part of the consideration paid for these territories. Indemnity for the expenses of the war, amounting probably to \$60,000,000, and the surrender of the claims of our citizens upon Mexico, amounting to \$5,000,000 more, were all parts of the consideration paid; making a gross sum of nearly, if not quite, \$80,000,000, as the price paid for them. He referred also to the price paid for Louisiana and Florida, to show the exorbitance of the sum proposed to be paid to Texas; but the price paid for these Territories forms no standard by which to judge of the value of the territory in question. Louisiana was of almost inappreciable value to the United States, not only as



commanding the outlet to the Gulf, but for the land within her limits. But both Louisiana and Florida belonged to governments remote from them, and who were tired of the expense of maintaining them. It was for this reason that we got the former for \$15,000,000, and the latter for \$5,000,000. The acquisition of these Territories was a great achievement; and yet France and Spain were probably greater gainers by the transaction than the United States. They got rid of expensive provinces, which were sooner or later likely to involve them in hostilities, or to become independent after a bloody and costly struggle. They, therefore, form no criterion by which to judge of the amount proper to be paid to Texas, which is a State of the Union, and whose gain is the gain of the whole country. To settle a difficulty, to buy peace, to save New Mexico, which is in danger of being swallowed up, and to withdraw from the influence of slavery as much territory as possible, I am disposed to be liberal.

But to return to the allegation that the territory proposed to be ceded is of very little value. In some respects this may be true, but in others it is not. For purposes of agriculture its value is probably small in comparison to its extent. But the limits of the country assigned to the Indians require to be enlarged; and as this territory is contiguous, it will be very suitable, and on that account valuable. I repeat, therefore, that I am willing, for all these reasons, to vote Texas a liberal sum for the relinquishment of her claim to the territory in question.

Mr. President, before concluding the desultory train of remarks which I have been pursuing, I desire to refer to a portion of the argument of the Senator from Massachusetts, (Mr. DAVIS,) which I neglected on Saturday. The honorable Senator introduced several subjects, as I thought, in invidious connexion with the measure now pending in this body—the Nashville Convention, the expedition of Lopez, and lastly, the repeal of the Tariff law of 1842, and the substitution for it of that of 1846, since so disastrous in its effects on some of the most important branches of American industry. The Senator disclaims all design of connecting the supporters of the compromise with the parties and subjects to which he referred; but we cannot shut our eyes to the fact that these subjects, and the parties to these enterprises, were introduced for a purpose, and for a purpose not favorable to the measure. Their introduction was for the purpose of connecting them, in some way or another, with the bill under consideration; otherwise it was aimless to introduce them; and the honorable Senator is not one to be suspected of doing a vain thing. But what connexion is there between the measure, or those who support it, and the designs of the Nashville Convention, the expedition of Lopez, or the repeal of the act of 1842? There is far more community of object between the Senator and those who act with him, and the members of the Nashville Convention, and the supporters of the policy embodied in the act of 1846, than between the latter parties and the supporters of this measure.

The honorable Senator blames the South for waging war upon the act of 1842, and the consequent prostration and destruction of the great interests of the North. In this warfare the South undoubtedly took part; but if the Senator will look about him, he will find that his Northern and Southern allies in the war now waged upon the compromise, led the van in the battle in which the Tariff of 1842 was destroyed. And if he will take the trouble to look a little further, he will see that the great champion of the compromise (Mr. CLAY) has been for more than a quarter of a century the champion of the tariff; and that the great majority of the Southern supporters of the compromise resisted to the last the repeal of the act of 1842. In the memorable and eventful struggle of 1846, which terminated in the destruction of protection to American industry, on what side did my honorable friend from Georgia, (Mr. BERRIEN,) near me, do battle? In what ranks were the Senator from Maryland (Mr. PEARCE) and the Senator from North Carolina (Mr. MANGUM) found contending? In the ranks of those who stood up for the protection of American labor and the American laborer. The same is true of other Southern Senators who have retired from this theatre of clashing opinions and strife. These men, at the risk of their own political security, the imputation of selfish motives, and the charge of abandoning the interests of their own section of the country, with the courage of true statesmen, supported the right, leaving to time their vindication against all charges and all suspicions. And when the time comes to restore to the country the policy by which her resources are best developed, her labor best rewarded, and the general prosperity secured, to whom are we to look for aid—to the friends or enemies of the compromise? Amongst the Southern allies of the Senator in his war upon it, to what one will he look for aid to restore the prostrated and down-trodden prosperity of the North? Is there a single one to whom he can look with confidence for help? No; not one. If he would find aid, he must look elsewhere; he must go to its friends. But unless the existing difficulties are settled, and harmony and good feeling restored between the contending sections, will he find it even there? I fear not.

We have heard the Senator from Georgia, (Mr. BERRIEN,) and other Senators from the same section of the country, declare that, unless an honorable adjustment of the existing difficulties take place, they will never again risk their political security, or stand up against the sentiments of their own constituents, wisely or unwisely entertained. I was sorry to hear this emphatic declaration of their purpose in this respect; but I know enough of human nature not to be surprised at it. I regret it, deeply regret it; and for the sake of our suffering, perishing interests, hope that this unnatural warfare of the North against the South may be accommodated in a manner satisfactory to both. And while I would sacrifice no great principle of human freedom to promote such accommodation, I am anxiously solicitous it should take place; and I verily believe that the bill I have been considering proposes terms of accommodation that should be satisfactory to both sections of the country. While it will not extend slavery a single inch, it will take nothing from the South which she has a right to claim. California will be admitted into the Union on the terms prescribed by her own people, with a Government of her own choice, to work out her own political destiny in her own way. New Mexico and Utah will be provided with governments adapted to their condition, and our duty to them be thus performed; and the boundary of Texas peacefully and honorably settled. Thesethings achieved, the harmony of the



country will be restored, and an era of good feeling, propitious to the interests and prosperity of the whole country and the preservation of the Union, ushered in. For the dawning of such a day every good citizen will prefer to a benign Providence his earnest supplications.

I have thus, Mr. President, imperfectly, and in a very desultory manner, examined the provisions of this bill, and am prepared to give them my support, severally or combined. The bill is not in all respects such as I could have wished it, as my votes upon the various amendments proposed to it testify. But I regard it as the most conformable to the wishes of my constituents and the interests of human freedom, which, under all the circumstances, it was practicable to pass. I think its practical effect will be to prevent the extension of human slavery, while at the same time it will restore harmony to the country. "North" and "South," which have become antagonistic terms, not geographically only, but also politically and socially, will assume their natural meaning. Sectional dissensions and animosities will cease, and we shall come at length practically to feel and realize that we are one people, separated, indeed, by State lines, and living under distinct State governments, but still one great, united, harmonious, and happy people. It will make the Union permanent. It will destroy nothing but the power of the demagogue. He will no longer have it in his power to engender discord by inflaming prejudices, which are founded on the ignorance which prevails in the one section of the country, of the feelings, opinions, and dispositions which prevail in the other.

Mr. President, these sectional animosities and prejudices are disastrous in their effects. They induce legislative warfare of section upon section; and in this way interests essential to the prosperity of the country are prostrated and destroyed. Let these animosities cease, and sectional prejudice slumber forever; and, when this is the case, we shall see the country, the whole country, bound forward anew on the road to wealth, and power, and greatness, with a rapidity which will cause the world to look on and marvel. But let them continue, and it requires no prophet to foretell that the progress of the country in improvement will be checked, and that henceforth we shall go forward at the slow and lag-gard pace of other nations, which have required centuries to perform what to us has been but the work of a generation.

It was my intention in the beginning to have examined the other measures which make up the total of the proposed compromise; but, as they are not before us, and as the condition of my health admonishes me to close my remarks, I will wait another opportunity to express my views in relation to them.